

UTAH RADIATION CONTROL BOARD

**MINUTES OF THE UTAH RADIATION CONTROL BOARD MEETING, June 7, 2002,
Department of Environmental Quality (Bldg. #2), 168 North 1950 West, Conf. Room 101,
Salt Lake City, Utah.**

BOARD MEMBERS PRESENT

Stephen T. Nelson, Ph.D., Chairman
Gary L. Edwards, M.S., Vice Chairman
William J. Sinclair, M.S.E.H., Executive Secretary
Kent J. Bradford, P.G.
Thomas K. Chism, M.S.
Cathleen C. Gilbert, C.P.A., Esq.
Rod O. Julander, Ph.D.
Karen S. Langley, M.S.
Gregory G. Oman, D.D.S., B.S.
Barbara S. Reid, M.D.

BOARD MEMBERS ABSENT/EXCUSED

Teryl J. Hunsaker, Commissioner
Dianne R. Nielson, Ph.D.

DRC STAFF/OTHER DEQ MEMBERS PRESENT

Clark Clements, DRC Staff
Dane Finerfrock, DRC Staff
Boyd Imai, DRC Staff
Chris Morley, DEQ/Attorney General's Office
Fred Nelson, DEQ/Attorney General's Office
Julie Silotti, DRC Staff
Yoli Shropshire, DRC Staff

PUBLIC

Kenneth L. Alkema, Envirocare of Utah, Inc.
Michelle Rehmann, IUC (USA)
Mark Ledoux, Envirocare of Utah, Inc.
Gregory H. Copeland, Greenfield Logistics
Jim Holtkamp, LeBoeuf, Lamb, Greene
& MaCrae LLP
Judy Fahys, Salt Lake Tribune

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the DEQ Building #2, Room 101, 168 North 1950 West, in Salt Lake City, Utah. The meeting was called to order at 2:05 p.m. by Dr. Stephen T. Nelson, Chairman of the Board. Dr. Nelson welcomed all members and public attending the meeting. Dr. Nelson stated to those present, if they wished to address any items on the agenda to indicate it on the sheet as they signed in. Those desiring to comment would be given a chance to address their concerns on any agenda items to the Board.

I. APPROVAL OF MINUTES (Board action items)

a. Approval of April 5, 2002, Minutes (Board action item)

Tom Chism proposed the following changes to the minutes:

1. Page 2, Item II.a., subtitle which reads: "a. Charges to R313-17-2 (1)(a) . . ." Change to read: "a. Changes to R313-17-2 (1)(a) . . ."
2. Page 3, Item II.a., second paragraph, third sentence which reads: ". . . or before March 30, 2002." Change to read ". . . March 30, 2003."

Karen Langley, proposed the following changes to the minutes:

1. Page 7, Item V. e., second paragraph, fifth sentence which reads: ". . . reports are due by August 1, 2001." Change to read: ". . . reports are due by August 1, 2002."

Greg Oman made a motion to approve the minutes of April 5, 2002, as amended, seconded by Tom Chism.

CARRIED AND APPROVED UNANIMOUSLY

a. Approval of April 23, 2002, Minutes (Board action item)

Stephen Nelson, Chairman, asked the Board Members if they had any corrections to the minutes of April 23, 2002 Board Meeting. None of the Board Members volunteered any corrections to these minutes.

Rod Julander made a motion to approve the minutes as written for April 23, 2002, seconded by Karen Langley.

CARRIED AND APPROVED UNANIMOUSLY

II. RULES

a. Change to R313-22-33(1)(e) - final approval (Board action item)

Bill Sinclair reported that R313-22-33(1)(e), R313-70-7(2)(b)(c)(d)(e)(f), and R313-22-33(1)(e) were filed with the Division of Administrative Rules for public comment, as specified by the Board. A 30-day notice requesting public comment was published in the May 1, 2002 issues of The Deseret News and the Salt Lake Tribune. These rules are necessary for the Division to obtain an amended Agreement from the Nuclear Regulatory Commission to regulate uranium mills and tailings. Included in the packet are copies of the rules as filed and a copy of the proof of publication of the public notice. During the 30-day public comment period there were no comments filed or received at DRC regarding the proposed change to R313-22-33(1)(e). It was the recommendation of the Executive Secretary that the Board give final approval to R313-22-33 (1)(e) and set the effective date as of June 14, 2002.

Rod Julander made the motion to grant final approval to the change to R313-22-33(e) and set the effective date as of June 14, 2002, seconded by Barbara Reid.

CARRIED AND PASSED UNANIMOUSLY

b. Changes to proposed rules R313-17-2(1)(a) and R313-70-7(2)(b)(c)(d)(e) - to public comment (Board action item)

Bill Sinclair reported that during the public comment period, the Division received three sets of comments regarding changes to R313-17-2(1)(a) and R313-70-7(2)(d)(e)(f). Two requests for extension to the public comment period and one request for a public hearing were received regarding the additional rules filed on May 15, 2002 which included changes to R313-15-1001(1)(a), R313-19-2 (2), R313-22-39, and the new R313-24. The Executive Secretary provided responses to the comments regarding changes to R313-17-2(1)(a) and R313-70-7(2)(d)(e)(f) and provided the responses and comment letters to the Board in the supplemental packet provided at the June 7, 2002 Board meeting.

As a result of the request to extend the public comment period, the comment period on the changes to R313-17-2(1)(a), R313-70-7(2)(d)(e)(f) and R313-22-33(e) was extended until June 5, 2002. Additionally, the comment period for R313-15-1001(1)(a), R313-19-2 (2), R313-22-39, and the new R313-24 was extended to June 28, 2002. This extension was noticed in the Salt Lake Tribune, The Deseret News, Moab Times-Independent, and Blue Mountain Panorama (Blanding) newspapers. The notices were provided in the Board supplemental packet.

After review of the comments, the Executive Secretary determined that it was necessary to re-propose two of the rulemakings, specifically R313-17-2(1)(a) and R313-70-7(2)(d)(e)(f). Changes made as a result of the comments are substantive in nature and require another comment period. The Executive Secretary recommended that the Board approve the re-proposed rules (R313-17 and 70) be filed with the Division of Administrative Rules and the rules be made available for a 30-day public comment period.

Kent Bradford made the motion to file re-proposed rules R313-17-2(1)(a) and R313-70-7(2)(d)(e)(f) with the Division of Administrative Rules and the rules be made available for a 30-day public comment period, seconded by Greg Oman.

CARRIED AND PASSED UNANIMOUSLY

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No items

IV. X-RAY REGISTRATION/INSPECTION

a. Recertification of Mammography Medical Imaging Physicists (Board action item)

Craig Jones instructed members of the Board to turn to Tab 4 in the Board packet. He explained that they would find a list of nine individuals identified and they are all individuals that have been practicing mammography surveys in the state in the past. Each year, they must seek re-certification as a mammography imaging medical physicist. Craig continued by stating that the nine individuals on this list have completed an application, and sufficiently demonstrated that they have maintained the required number of continuing education units in mammography related fields. The individuals have also completed the minimum number of mammography surveys that are required by the Utah Radiation Control Rules.

Craig recommended that the Board approve the nine individuals to be certified as mammography imaging medical physicists. The time period of this certification should extend from June 1, 2002 to May 31, 2003.

Questions by Board members:

Rod Julander asked why mammography imaging medical physicists were certified on a yearly basis. Craig indicated that it was established as an annual certification at the time of the initial rulemaking and perhaps it would be time to revisit the issue if an annual certification is necessary or that the certification time frame could be extended. For example, the Division is registering qualified experts on a three-year basis.

Tom Chism made the motion to approve and certify the nine individuals on the list provided by Craig Jones as mammography imaging medical physicists, seconded by Barbara Reid.

CARRIED AND PASSED UNANIMOUSLY

V. RADIOACTIVE WASTE DISPOSAL

a. Determination regarding written findings on motion for summary judgment regarding appeals of final Executive Secretary decision on Envirocare's application to accept containerized Class A, B, and C low-level radioactive waste of July 9, 2002 - presentation by Fred Nelson, Utah Attorney General's Office (Board action item)

Fred Nelson of the Utah Attorney General's Office asked Board members to refer to Tab 5 in the Board packets. Fred indicated that, in March 2002, the Board heard the findings on motion for summary judgement regarding appeals of final Executive Secretary decision on Envirocare's application to accept containerized Class A, B, and C low-level radioactive

waste of July 9, 2001. Rulings were made on different parts of that summary judgement motion.

He indicated that under formal administrative proceedings, the findings must be produced in writing. Envirocare prepared a draft findings as the prevailing party on most of the issues and submitted it to the Attorney General's Office. Fred indicated that he had made revisions to it on behalf of the Board, and sent it out to the parties. The written findings before the Board has been agreed to by Envirocare and by Jason Groenewold of FAIR. FAIR did not have any objections to the final draft. Fred recommended that the Board approve the final draft and have the Presiding Officer (Chairman Stephen Nelson) sign the document.

Rod Julander made the motion that the final draft be accepted and signed, seconded by Greg Oman.

Chairman Nelson called for a roll call vote and the Board members voted as follows:

Rod Julander - Yes
Tom Chism - Yes
Kent Bradford - Yes
Barbara Reid - Yes
Stephen Nelson - Yes
Gary Edwards - Yes
Cathleen Gilbert - Yes
Greg Oman - Yes
Karen Langley - Yes

CARRIED AND PASSED UNANIMOUSLY

b. Summary of meeting of Northwest Interstate Compact, Seattle, Washington, June 5, 2002 (Board information item)

Bill Sinclair reported that on Wednesday, June 5, 2002, he attended a meeting of the Northwest Interstate Compact on Low-Level Radioactive Waste Management. He presented information on the status of the appeals of the Class A, B, and C license that was issued to Envirocare in July 2001. He also informed the Commission of the recent citizen's initiative regarding taxation of radioactive waste. Three other noteworthy issues were discussed:

(1) The Southwest Compact Commission came forth with a written proposal for the Northwest Compact Commission to consider forming an arrangement with them to export waste from the Southwest Compact states of California, Arizona, North and South Dakota to the Compact host site at Richland, Washington. The State of Washington was quick to point out that Washington law prohibits the state from entering into agreements with other Compacts unless very stringent requirements are met. For example, the states in the Compact wishing to export waste must generate less than 1000 cubic feet of waste per year. For any future arrangements to be considered by the Northwest Compact, the Washington state law must be changed.

(2) The Second Amended Resolution and Order (SARO), which is the document in which Envirocare operates in concert with the Compact was up for a periodic three-year review. A subcommittee of the Compact reviewed the current resolution and

made some recommendations. In the end, the SARO remained unchanged. The next periodic review will be June 2005.

(3) There was a request by Duratek to send about four cubic feet of co-mingled incinerator ash to Envirocare that was generated in the Northwest Compact. Through a series of “oops” it eventually ended up in Tennessee. The motion was to table any approval until more information about the waste was received by the Executive Director of the Compact.

VI. URANIUM MILL TAILINGS UPDATE

a. Moab Millsite update (Board information item)

Bill Sinclair stated that the Board packet contained a summary sheet of the activities that took place since the last Board meeting. The subcommittees of the Stakeholder Group have been active as reflected in the summary of meetings of the Groundwater Subcommittee of April 16, 2002 and the Relocation Subcommittee on May 1, 2002. Those groups continue to work on a variety of issues and the next meetings are July 12th for the Groundwater Subcommittee and July 17th for the Relocation Subcommittee. Both Subcommittees will meet from 9:00 a.m. to 1:00 p.m. at the Grand County Commission chambers in Moab.

In addition, word has been received that the National Academy of Sciences study is nearing completion. NAS has also indicated that they may hold a public meeting to discuss the results of the study in Moab as early as next week. When this is nailed down, Board members will be provided with the information regarding the meeting date, time, and location.

In the summary sheet, information was also provided on the final closure of the trust, the final Title X payment to the State Escrow account of \$790,091.74, of which half goes to the U.S. Nuclear Regulatory Commission (NRC), and an update on the Department of Energy (DOE) reclamation plan process. It appears now that DOE-Grand Junction Office will deliver DOE Headquarters a final remediation plan on November 8, 2002 for their consideration.

VII. OTHER DEPARTMENT ISSUES

a. Summary of Conference of Radiation Control Program Directors Meeting, Madison, Wisconsin, May 2-9, 2002 (Board information item)

Bill Sinclair indicated that the Board packet contained materials from the annual meeting of the Conference of Radiation Control Program Directors (CRCPD). At the meeting, he presented talks regarding low activity, long-lived waste management, succession planning, and a Utah program update. Copies of those talks are provided in the packet. In terms of resolutions (which are pulses of national issues out there), CRCPD passed resolutions regarding the use of potassium iodine (KI) in the event of a large release of radioactive iodine from a power plant event, regulation of DOE facilities, the release of solid materials from nuclear facilities, and computed tomography (CT) scanning. The resolutions are included in the Board packet.

b. Recognition of outgoing Board members

Bill Sinclair indicated that the terms of three Board members that would be expiring at the end of June 2002. Bill said that these Board Members had served two terms or decided to not return for another term on the Board.

He then recognized each retiring Board member for their hard work, dedication, and service to the citizens of Utah while on the Board. He presented plaques to the following Board Members who will not be returning to the Board:

Cathleen C. Gilbert, C.P.A., Esq.
Teryl W. Hunsaker, Commissioner
Barbara S. Reid, M.D.

Although Teryl Hunsaker was not at the Board meeting, Bill indicated that he would make sure Teryl received his plaque.

He indicated that replacements for these Board Members had been approved by the Governor and their names will move to the Senate for confirmation. He indicated that three new faces will be seen at the July Board meeting.

VIII. PUBLIC COMMENT

There were no comments offered from the public.

IX. OTHER ISSUES

a. Next Board Meeting - to be determined

Bill Sinclair indicated that the Board typically does not meet during the month of July, but due to the uranium mill tailings rulemakings, it is going to be necessary for the Board to have a July meeting. Board meetings are generally held the first Friday of the month which, in July, would be the day after the Fourth of July. He stated that due to the conflict with the holiday, it will be necessary to reschedule and find an alternate date for the Board meeting to be held in July 2002.

Discussion followed as to when it would be best to hold a July 2002 meeting. It was then determined by the Board members that the next Board meeting would be held July 12, 2002, at the Department of Environmental Quality (Bldg. #2), 168 North 1950 West, Conference Room 101, Salt Lake City, Utah, at 2:00 p.m.

The Board meeting adjourned at 2:50 p.m.